

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

EDWARD J. SMITH,

Plaintiff,

VS.

NEBRASKA WAREHOUSE COMPANY,

Defendant.

8:05CV81

ORDER AND NOTICE OF HEARING

James E. Mitchell has filed a MOTION TO WITHDRAW as counsel for plaintiff (#16). Because substitute counsel has not entered an appearance, the matter will be set for hearing. Plaintiff, Edward J. Smith, will be required to personally attend this hearing.

IT IS ORDERED:

1. The motion to withdraw (#16) is set for evidentiary hearing on **September 30, 2005 at 10:30 a.m.** in Courtroom 6, Roman L. Hruska U.S. Courthouse, 111 S. 18th Plaza, Omaha, Nebraska.
2. Plaintiff, Edward J. Smith, is required to personally attend the hearing.
3. Moving counsel, James E. Mitchell shall serve copies of the Motion to Withdraw and this Order and Notice of Hearing on Edward J. Smith at his last known address **by certified mail, return receipt requested.**
4. Moving counsel, James E. Mitchell, shall timely file proof of service showing compliance with paragraph 3, above, and listing the names and addresses of the persons to whom notice was sent.
5. The parties are advised that the evidentiary hearing will not be necessary and will be cancelled if (a) the motion is withdrawn, or (b) plaintiff retains substitute counsel and substitute counsel enters a written appearance by **1:00 p.m. on September 29, 2005.** The written appearance must be timely filed with the Clerk of the Court. Communication by facsimile or telephone will not satisfy the requirement of a written appearance.

DATED July 5, 2005.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge